IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4967 OF 2007
AND
WRIT PETITION NO. 4968 OF 2007.

Ramesh Arora ....Petitioner
V/s
Bombay Municipal Corpn. & Anr..... ....Respondents.

Mr.D.C.Shah, Adv. For the petitioner.

Mr.R.A.Malandkar, Adv. For respondent No.1.

Mr.R.A.Thorat with Mr.R.D.Thorat, Adv. For respondent No.2.

CORAM: A.P.DESHPANDE, J.
27/8/07

PC:

The present petitioner is a member of the housing society. The respondent-corporation issued a notice of demolition of an extension to garage and hence the petitioner filed a suit calling in question the legality and validity of the notice of demolition in the court of City Civil Court, Bombay. In the said suit respondent had been restrained from implementing notice pending decision of the suit. The present respondent No.2-housing society being owner of the property in question moved an application under order 1 rule 10 of Code of Civil Procedure for impledment of respondent No.2 as party-defendant in the suit. The City Civil Court being aware of the settled legal position that owner of the property is necessary party in such a suit has allowed the application

and directed the petitioner to implead respondent No.2 as party-defendant. It is this order which is challenged by filing present writ petition. Perused the impugned order. As it is an admitted fact that the owner is seeking impledment the order impugned cannot be faulted. The main grievance of the petitioner is that at belated stage application has been moved and allowed by the trial Court. Learned counsel for the respondent No.2 submits that writ petition was filed in this Court and the application under order 1 rule 10 was moved under liberty granted by this Court. By it as it may, delay in moving the application cannot be fatal. Rather the petitioner should have impleaded society in the suit. As the petitioner is already protected by an order of temporary injunction no prejudice will be caused to the petitioner. Hence no interference is called for. Writ petition is summarily dismissed.

27.8.07